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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000-0196]

[Docket No. 2016-0053; Sequence 33]

Submission for OMB Review; Payment of Subcontractors

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for public comments regarding an extension to an existing OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act, the Regulatory Secretariat will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning Payment of Subcontractors.

DATES: Submit comments on or before **[Insert date 30 days after publication in the Federal Register]**.

ADDRESSES: Submit comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to: Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for GSA, Room 10236, NEOB, Washington, DC 20503. Additionally submit a copy to GSA by any of the following methods:

- Regulations.gov: <http://www.regulations.gov>.

Submit comments via the Federal eRulemaking portal by searching for OMB control number 9000-0196, Payment of Subcontractors. Select the link "Submit a Comment" that corresponds with "9000-0196; Payment of Subcontractors." Follow the instructions provided at the "Submit a Comment" screen. Please include your name, company name (if any), and "9000-0196; Payment of Subcontractors" on your attached document.

- Mail: General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street, NW, Washington, DC 20405. ATTN: Ms. Flowers/IC 9000-0196.

Instructions: Please submit comments only and cite IC 9000-0196, in all correspondence related to this case. All comments received will be posted without change to <http://www.regulations.gov>, including any personal and/or business confidential information provided. To confirm receipt of your comment(s), please check www.regulations.gov, approximately two to three days after submission to verify posting (except allow 30 days for posting of comments submitted by mail).

FOR FURTHER INFORMATION CONTACT: Mr. Curtis E. Glover, Sr., Procurement Analyst, at 202-501-1448, or email curtis.glover@gsa.gov.

SUPPLEMENTARY INFORMATION:

A. Purpose

Section 1334 of the Small Business Jobs and Credit Act of 2010 (Public Law 111-240) and the Small Business Administration's Final Rule at 78 FR 42391, Small Business Subcontracting, published on July 16, 2013, and effective August 15, 2013, requires the prime contractor to self-report to the contracting officer when the prime contractor makes late or reduced payments to small business subcontractors. In addition, the contracting officer is required to record the identity of contractors with a history of late or reduced payments to small business subcontractors in the Federal Awardee Performance and Integrity Information System (FAPIIS). FAR Part 42 is revised to include in the past performance evaluation reduced or untimely payments reported to the contracting officer by the prime contractor in accordance with the clause at 52.242-XX, Payments to Small Business Subcontractors, that are determined by the contracting officer to be unjustified.

A notice was published in the Federal Register at 81 FR 3087, on January 20, 2016, as part of a proposed rule under FAR Case 2014-004. Two comments were received on the information collection.

B. Discussion and Analysis

Comment: Two respondents stated that the Councils had underestimated the public burden in regards to the proposed rule. One respondent commented that the FAR Council has greatly underestimated the implementation burden on commercial item and COTS item contractors, especially considering the broad definition of "subcontractor" that applies to the proposed rule. The other respondent believed that the estimate of reporting time of only two hours per respondent is grossly underestimated. This negligible amount of time assumes that all contractors can easily identify from their payment systems which subcontractors are small businesses. The respondent believed that this is often not the case, and that the small business size status of a subcontractor may be unknown to the contractor's other accounting systems. The other respondent commented that since the Small Business Jobs Act of 2010 does not specifically require that the subcontractor payment clause apply to commercial contracts, the respondent recommended that the FAR Council seek additional information about the burden on contractors before a determination is made to apply the payment of subcontractor requirements to commercial item acquisitions. The respondent did not find that the availability of limited information indicated that the burden may not be significant, as described in the proposed rule. Rather, initial feedback from contractors

suggested that the burdens associated with reporting under the rule will have a significant impact.

Response: The respondents do not offer data with which to support changing the current estimated public burden hours. However, since this is a new rule without an empirical frame of reference, the public reporting burden is reviewed every three years and can be adjusted as necessary.

Public comments are particularly invited on: Whether this collection of information is necessary for the proper performance of functions of the FAR, and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

C. Annual Reporting Burden

Respondents: 5,457.

Responses per Respondent: 1.

Total Annual Responses: 5,457.

Hours Per Response: 2.

Total Burden Hours: 10,914.

OBTAINING COPIES OF PROPOSALS: Requesters may obtain a copy of the information collection documents from the General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street, NW, Washington, DC 20405, telephone 202-501-4755. Please cite OMB Control Number 9000-0196, Payment of Subcontractors, in all correspondence.

Dated: November 15, 2016

Lorin S. Curit,
Director,
Federal Acquisition Policy Division,
Office of Governmentwide Acquisition Policy,
Office of Acquisition Policy,
Office of Governmentwide Policy.

[BILLING CODE 6820-EP]

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